

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CD INTELLECTUAL PROPERTY
HOLDINGS, LLC

Plaintiff,

Civil Action No. 05-414-JJF

v.

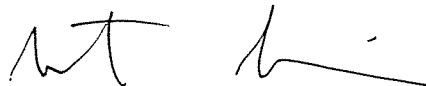
AMAZON.COM, INC.,

Defendant.

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that Amazon.com, Inc. has served the attached
subpoenas.

YOUNG CONAWAY STARGATT & TAYLOR, LLP



Josy W. Ingersoll (No. 1088)
John W. Shaw (No. 3362)
Karen E. Keller (No. 4489)
Monté T. Squire (No. 4764)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
(302) 571-6600
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OF COUNSEL:

Lynn H. Pasahow
J. David Hadden
Darren E. Donnelly
C. J. Alice Chen
FENWICK & WEST LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041
Telephone: (650) 988-8500
Facsimile: (650) 938-5200

Attorneys for Defendant Amazon.com, Inc.

Dated: March 6, 2006

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

Ohio

CD Intellectual Property Holdings, LLC.

SUBPOENA IN A CIVIL CASE

V.

Amazon.com, Inc.

Case Number:¹

Case Pending in the United States District Court
For the District of Delaware
Case No.: 05-414-JJF

TO: Charles M. Stack
c/o Flashline, Inc.
1300 East 9th Street, Suite #1600
Cleveland, Ohio 44114

YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION

DATE AND TIME

Tackla Reporting, 1801 E. 9th Street, #1020, Cleveland, OH 44114, 216-241-3918

April 20, 2006 at 9:30 AM

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects place, date, and time specified below (list documents or objects):

PLACE

DATE AND TIME

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.


PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE


Attorneys for Defendant Amazon.com, Inc.

March 29, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Darren E. Donnelly, Fenwick & West LLP, 801 California Street, Mountain View, CA 94041 (650) 988-8500

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Parts C & D:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

AO88 (Rev. 1/94) Subpoena in a Civil Case

Issued by the
UNITED STATES DISTRICT COURT

Northern

DISTRICT OF

Ohio

CD IP Holdings, LLC.

SUBPOENA IN A CIVIL CASE

V.

Amazon.com, Inc.

Case Number:¹

Case Pending in the United States District Court
For the District of Delaware
Case No.: 05-414-JJF

TO: Adam Wallace
c/o Flashline, Inc.
1300 East 9th Street, Suite #1600
Cleveland, Ohio 44114

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DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

DATE


Attorneys for Defendant Amazon.com, Inc.

March 29, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Darren E. Donnelly, Fenwick & West LLP, 801 California Street, Mountain View, CA 94041 (650) 988-8500

¹ If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

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Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

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(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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(i) fails to allow reasonable time for compliance,

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c) (3) (B) (iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

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(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CD INTELLECTUAL PROPERTY
HOLDINGS LLC.

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

Civil Action No. 05-414-JJF

**PROOF OF NOTICE OF SERVICE OF SUBPOENAS
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 45(b)(1)**

PROOF OF SERVICE

I, Joy Alegria Haynes, declare that:

I am employed in the county of Santa Clara, state of California. I am over the age of 18 and not a party to this action. My business address is 801 California Street, Silicon Valley Center, Mountain View, CA 94041.

On March 29, 2006, I caused to be served copies of the following document(s) entitled: **SUBPOENA IN A CIVIL CASE TO CHARLES STACK AND SUBPOENA IN A CIVIL CASE TO ADAM WALLACE** on the parties in the subject action by placing a true and correct copy thereof as indicated below, addressed as follows:

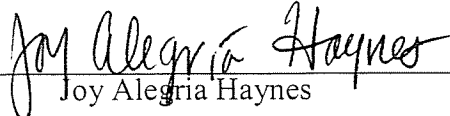
Steven J. Balick, Esq.
ASHBY & GEDDES
222 Delaware Avenue, 17th Floor
P.O. Box 1150
Wilmington, DE 19899
sbalick@ashby-geddes.com

Steve Lieberman, Esq.
ROTHWELL, FIGG, ERNST & MANBECK, PC
1425 K Street, NW, Suite 800
Washington, DC 20005
slieberman@rfem.com

- (X) **BY U.S. MAIL:** I am familiar with our business practices for collecting and processing of mail for the United States Postal Service. Mail placed by me within the office for collection for the United States Postal Service would normally be deposited with the United States Postal Services that day in the ordinary course of business. The envelope(s) bearing the address(as) above was sealed and placed for collection and mailing on the date below following our ordinary business practices.
- () **PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).
- () **BY FEDERAL EXPRESS:** I caused such envelope(s) to be delivered to Federal Express for overnight courier service to the office(s) of the addressee(s).
- () **BY FACSIMILE:** I caused a copy of such document(s) to be sent via facsimile transmission to the office(s) of the party(s) stated above and was transmitted without error.
- (X) **BY EMAIL:** I caused a copy of such document(s) to be sent via electronic mail to the email address(es) of the party(s) stated above and was transmitted without error.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 29, 2006


Joy Alegria Haynes

CERTIFICATE OF SERVICE

I, Monté T. Squire, hereby certify that on March 30, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

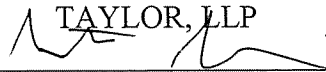
Steven J. Balick, Esq.
ASHBY & GEDDES
222 Delaware Ave.
P.O. Box 1150
Wilmington, DE 19899
sbalick@ashby-geddes.com

I further certify that on 3/30/2006, I caused a copy of the foregoing document to be served by hand delivery and electronic mail on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

BY ELECTRONIC MAIL

Steve Lieberman, Esq.
ROTHWELL, FIGG, ERNST & MANBECK, PC
1425 K Street, NW, Suite 800
Washington, D.C. 20005
slieberman@rfem.com

YOUNG CONAWAY STARGATT &
TAYLOR, LLP



John W. Shaw (ID# 3362)
Karen E. Keller (ID# 4489)
Monté T. Squire (ID# 4764)
The Brandywine Building
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Telephone: (302) 571-6600
msquire@ycst.com

Attorneys for Defendant